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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/570,825

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Jurgen Schonlau

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EXAMINER

WEST, PAUL M

ART UNIT

PAPER NUMBER

2856

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/570,825	Applicant(s) SCHONLAU ET AL.	
	Examiner PAUL M. WEST	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 13-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03062006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claims 14-24 are objected to because of the following informalities:
2. Claims 14,15,17-19 and 21-24 are all dependent on claim 12 which is a canceled claim. Appropriate correction is required.
3. In claim 16, "the area where the housing parts are separated" and "the housing parts" lack proper antecedent basis in the claim.
4. In claim 17, "the zone of separation" lack proper antecedent basis in the claim.
5. In claim 19, "the top housing part" lacks proper antecedent basis in the claim.
6. In claim 22, "the housing wall" lacks proper antecedent basis in the claim.
7. In claim 23, "the sealing area of the cover" lacks proper antecedent basis in the claim.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Regarding claim 19, the wording of the claim makes it unclear what "the top housing part or the cover or... the wall" refer to. Are these parts of the measuring device or the reservoir.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 13-15 and 17-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Sasaki et al. (EP 0 399 824 A3).

6. Regarding claim 1, Sasaki et al. teach a measuring device for measuring a fluid level, comprising: a measuring electronic system 7 integrated into the measuring device; a sensor device 4 which is connected to the measuring electronic system by electrically conductive parts 4a and 4b, and used to determine the filling level of the fluid in the reservoir 19 receiving the fluid; an electric supply line 4a,4b providing an electric connection between the measuring electronic system 7 and the sensor device 4; and an electric connecting line 10 providing a connection between the measuring device and an electronic control unit 13 for transmission of the sensor signals.

7. Regarding claim 14, Sasaki teaches the measuring device including two housing parts: 1a and 1b as one part, and 1e as another part. Sasaki teaches that part 1e is provided with openings 1f which preset a defined flow resistance necessarily based on their size.

8. Regarding claims 15 and 22, Sasaki et al. teach the measuring device having a zone of separation which protects the electronics against fluid by hermetically sealing

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the area in which the electronics are accommodated, and where the sealing is provided by a shaped part 2 which bears from inside against the housing wall of the electronics area in a form-fit manner, and where sealing is performed by two elastic seal rings 3a and 3b.

9. Regarding claim 17, Sasaki et al. teach the electric supply line 4a,4b being formed of plane conductors which are led in a seal-tight manner through the zone of separation using o-ring 3b.

10. Regarding claim 18, the device is assembled from parts which could be modified, such as by cutting or lengthening, to adapt to different reservoir shapes.

11. Regarding claim 19, the measuring device is mounted to the wall of the reservoir 19 (Fig. 1).

12. Regarding claim 20, the device can be displace axially and turned by an angle via screw connection 1a,1c.

13. Regarding claim 21, Sasaki teaches the device comprising a plug cap 11, for connection of a plug 12 for the electric connecting line 10 where the measuring electronic system is attached, and wherein the plug cap is displaceable and can be turned about the longitudinal axis.

14. Regarding claim 23, Sasaki teaches that the measuring device is screwed into the reservoir and therefore may be vented by loosening or removing the measuring device. Note in this case parts of the measuring device also serve as a cover for the reservoir opening.

15. Regarding claim 24, Sasaki teaches the measuring device having plug extension (upper end of device A in Fig. 1) which comprises a connecting plug 12 for a sensor connecting cable 10, and which seals the electronics area toward the engine.

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki in view of Queyquep (5,907,112).

18. Regarding claim 16, Sasaki teaches all of the limitations as set forth above and further teaches that the measuring device includes two distinct sections: a probe section and an electronics housing section. However, Sasaki does not teach the measuring device having two housing parts which are separated. Queyquep teaches a measuring device with probe section 28 and a electronics housing section 22 which are separable parts and which are sealed from each other at the zone of separation where the parts are separated using seal 52,30. It would have been obvious to one of ordinary skill in the art to make the two housing parts, taught by Sasaki, separable, as taught by Queyquep, because this would allow the parts to be manufactured more simply and efficiently and would allow the electronics portion to be repaired or accessed without moving the probe portion.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL M. WEST whose telephone number is (571)272-8590. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hezron Williams/

Supervisory Patent Examiner, Art Unit 2856